

Number: 2002 -19
Date: 21 August, 2002

Page 1 of 2

Subject: STANDARD RULES FOR THE ALTERNATIVE DISPOSITION OF LEGAL NOTICES OF VIOLATION

Purpose: This bulletin establishes standard rules and procedures for Inspectional Services Department personnel to follow in disposing of legal notices of violation for violations of 780 CMR, the Massachusetts State Building Code; the Massachusetts State Sanitary Code, or any other regulation or ordinance administered by ISD.

Policy: Boston Inspectional Services shall enforce all regulations it is legally authorized to enforce with professional integrity and fairness at all times. ISD shall maximize the use of city resources in pursuing these objectives by availing itself of judicial efficiencies where possible to remedy issues and dispose of cases.

Determination:

When ISD has determined there are grounds to issue a fine violation to any person charged with violating a law, regulation or ordinance which ISD has the legal authority to enforce, ISD personnel shall proceed under the rules and standards contained in this bulletin.

Note: For purposes of clarity and brevity, the pronouns "He" and "His" are used editorially throughout this bulletin and should be interpreted as gender neutral.

§ 1 Legal Notice of Fine Violation:

Inspectors shall cause written legal notices of violation, with the approval of the Chief of the Department or other person as required by law, to issue and be served upon the offending person in the manner prescribed by law. In determining whether to issue legal notices of violation for fines, ISD shall consider all facts relevant to making such determination including, but not limited to the following:

- a. Whether the offense charged was willful, intentional, reckless or repeated;
- b. Whether the offense could lead to bodily harm, serious injury or damage to property.
- c. The standard rules and regulations for each division.

§ 2 Return of Service:

Once proof of service of the legal notice of violation is returned to the Inspectional Services Department, ISD shall proceed in accordance with one of the following alternative courses of action.

§3 Alternatives for Disposing of Legal Notices of Violation for Fines.

a. Alternative I – Resolution before Initiating Criminal Proceedings:

If at any time after service of a legal notice of violation, the offending person wishes to remedy the fine violation before this Department initiates criminal proceedings, the Inspectional Services Department shall file a civil complaint with a proposed court order with the court. The proposed court order may provide for a civil penalty to be paid by the offending person in lieu of any fine that may be assessed by the court after arraignment. The court order may also require the offending person to pay to City of Boston its incidental or consequential costs for the enforcement action taken.

b. Alternative II- Failure to reach a pre-arraignment agreement for disposition:

Upon lapse of thirty (30) days from the date of service of the legal notice of violation, the Inspectional Services Department shall seek enforcement by means of filing a Criminal Complaint in Housing Court or a court of competent jurisdiction. If the offending person appears at arraignment or pretrial conference and wishes to remedy the legal notice of violation without further proceedings, then the Inspectional Services Department shall withdraw the Criminal Complaint and move the Court to treat the violation as a civil matter. Such motion shall urge the Court to:

- 1.) Adjudicate the matter against the offending person
- 2.) Impose a civil penalty in lieu of a fine and in an amount up to the maximum amount allowed by law
- 3.) Grant any equitable relief requested.

(See, G.L. c. 277, § 79; G.L. c. 185C § 19; G.L. c. 143, G.L. c. 111 § 127A.)


c. Alternative III- Failure to obtain remedy or agreed fine at or before arraignment

If the offending party has failed to remedy the violation upon appearing for arraignment on a Criminal Complaint filed with the Housing Court or court of competent jurisdiction, ISD shall aggressively pursue all fines and costs incurred as a result of the offending party's acts or omissions relative to the violation.

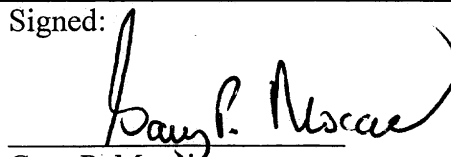
§ 4 Effective Date:

The rules and procedures contained in this bulletin shall take effect immediately and shall remain in effect until they are revoked by the Commissioner of Inspectional Services.

Signed:


Kevin J. Joyce
Commissioner of ISD
DATE: 8/26/02

Signed:


Gary P. Moccia
Commissioner of Buildings
DATE: